

PROCEEDINGS OF THE COMMON COUNCIL

IN REGULAR SESSION

TUESDAY, FEBRUARY 14, 1978

CITY OF FORT WAYNE INDIANA
JOURNAL OF THE PROCEEDINGS
OF THE COMMON COUNCIL

The Common Council of the City of Fort Wayne met in the Council

Chambers Tuesday evening February 14 A.D., 1978, in
Regular Session. President Samuel J. Talarico in the chair,
and Charles W. Westerman Clerk, at the desk, present the following

members _____ viz:

BURNS ✓, HINGA A, HUNTER ✓,

MOSES A, NUCKOLS ✓, DONALD SCHMIDT ✓,

VIVIAN SCHMIDT ✓, STIER ✓, TALARICO ✓,

ABSENT _____

COUNCILMAN _____, _____, _____,

_____, _____, _____,

The invocation was given by Rabbi Richard Safran - Achduth Vesholom
Congregation

Received report from the City Controller for the month of January,
19 78. Motion made and carried that report be made a matter of record and placed
on file.

The minutes of the last Regular January 24, 19 78,

_____, 19 _____,

Special _____, 19 _____,

Session having been delivered to the Council, were, on motion, approved and
published.

DATE 2-14-78 MADE A P. *Charles W. Westerman*
CHARLES W. WESTERMAN, CITY CLERK

DATE 2-14-78 MADE A P. *Charles W. Westerman*
CHARLES W. WESTERMAN, CITY CLERK

214-25

CITY CONTROLLERS AND CITY TREASURERS MONTHLY FINANCIAL STATEMENTS

[illegible]

DATE: 1001. 7 1981 20:11 11/11/81

CITY CONTROLLER'S AND CITY TREASURER'S FINANCIAL STATEMENT

JANUARY, 1978

INVESTMENTS	BEGINNING BALANCE	RECEIPTS FOR MONTH	TOTAL BALANCE & RECEIPTS	TOTAL DISBURSED 1978	DISBURSED FOR MONTH	TOTAL DISBURSED	CONTROLLER'S ENDING BALANCE
12 Utilities-Electric	4,150,000.00	2,650,000.00	2,500,000.00 -		2,700,000.00	2,700,000.00	4,200,000.00
13 Utilities-Water	1,880,000.00	400,000.00	800,000.00 -		150,000.00	150,000.00	950,000.00
14 Utilities-Sewer	6,150,000.00	3,550,000.00	2,600,000.00 -		3,450,000.00	3,450,000.00	6,050,000.00
17 S-51	100,000.00	100,000.00					
18 West Main	1,200,000.00		1,200,000.00 -				1,200,000.00
20 Aviation	500,000.00	200,000.00	300,000.00 -				300,000.00
21 Park General	575,000.00	450,000.00	125,000.00 -		300,000.00	300,000.00	425,000.00
22 Park Trust	210,000.00		210,000.00 -				210,000.00
26 Red. Dist. Bond	100,000.00		100,000.00 -				100,000.00
28 M.V.R.	750,000.00	250,000.00	500,000.00 -				500,000.00
32 Parking Adm.	75,000.00		75,000.00 -				75,000.00
34 Rev. Sharing	1,600,000.00	1,800,000.00			100,000.00	100,000.00	1,000,000.00
36 Anti Rec.							
38 Local Rd. & Svc.	1,300,000.00	400,000.00	200,000.00 -				800,000.00
44 Red. Dist. Capt.	250,000.00		250,000.00 -				250,000.00
44 Ft. Wayne Firefighting	100,000.00		100,000.00 -				100,000.00
45 Park Cumulative	160,000.00		160,000.00 -				160,000.00
40 St. Bond 1975	300,000.00		300,000.00 -				300,000.00
49 Investments	2,000,000.00	600,000.00	1,400,000.00 -		2,800,000.00	2,800,000.00	4,200,000.00
TOTALS	20,720,000.00	10,300,000.00	10,420,000.00 -		9,500,000.00	9,500,000.00	19,920,000.00

CITY CONTROLLER'S AND CITY TREASURER'S FINANCIAL STATEMENT
DECEMBER, 1977

INVESTMENTS	BEGINNING BALANCE	RECEIPTS FOR MONTH	TOTAL BALANCE & RECEIPTS	DISBURSED TO DATE	DISBURSED FOR MONTH	TOTAL DISBURSED	CONTROLLER'S ENDING BALANCE
12) UTILITIES-ELECTRIC	4,100,000.00	2,150,000.00	1,950,000.00-	24,350,000.00	2,200,000.00	26,550,000.00	4,150,000.00-
13) UTILITIES-WATER	1,350,000.00	950,000.00	400,000.00-	6,450,000.00	800,000.00	7,250,000.00	1,200,000.00-
4) UTILITIES-SEWER	6,850,000.00	6,000,000.00	850,000.00-	57,300,000.00	5,300,000.00	62,600,000.00	6,150,000.00-
7) R-51 AWE	100,000.00		100,000.00-	285,000.00		285,000.00	100,000.00-
8) RED. WEST MAIN STREET	1,200,000.00	1,000,000.00	200,000.00-	4,575,000.00	1,000,000.00	5,575,000.00	1,200,000.00-
9) AVIATION	400,000.00	400,000.00		1,650,000.00	500,000.00	2,150,000.00	500,000.00-
11) PARK GENERAL				1,575,000.00	575,000.00	2,150,000.00	575,000.00-
22) PARK TRUST	130,000.00	130,000.00		1,750,000.00	210,000.00	1,960,000.00	210,000.00-
26) RED. DISTRICT BOND	53,000.00	53,000.00		127,000.00	100,000.00	227,000.00	100,000.00-
8) NVH				1,225,000.00	750,000.00	1,975,000.00	750,000.00-
32) PARKING ADMINISTRATION				400,000.00	75,000.00	400,000.00	75,000.00-
34) REVENUE SHARING	2,200,000.00	600,000.00	1,600,000.00-	3,650,000.00		3,650,000.00	1,600,000.00-
36) ANTI RECESSION				190,000.00		190,000.00	
38) LOCAL ROAD & STREETS	900,000.00		900,000.00-	3,400,000.00	400,000.00	3,800,000.00	1,300,000.00-
44) REDEVELOPMENT DIST. CAPITAL	275,000.00	275,000.00		275,000.00	250,000.00	525,000.00	250,000.00-
54) FORT WAYNE FIREFIGHTING				200,000.00	100,000.00	300,000.00	100,000.00-
5) PARK CUM.	160,000.00		160,000.00-	1,093,000.00		1,093,000.00	160,000.00-
30) STREET BOND FUND "75"				800,000.00	300,000.00	1,100,000.00	300,000.00-
39) INVESTMENT	1,425,000.00	1,425,000.00		21,499,000.00	2,000,000.00	23,574,000.00	2,000,000.00-
TOTALS	19,143,000.00	12,983,000.00	6,160,000.00-	130,994,000.00	14,560,000.00	145,454,000.00	20,720,000.00-

CITY CONTROLLER'S AND CITY TREASURER'S MONTHLY FINANCIAL STATEMENT

MONTH OF DECEMBER - 1977

FUNDS	BEGINNING BALANCE	RECEIPTS FOR MONTH	TOTAL BALANCE AND RECEIPTS	DISBURSED TO DATE	DISBURSED FOR MONTH	TOTAL DISBURSED	CONTROLLER'S ENDING BALANCE
GENERAL FUND	51,609.74	2,961,000.03	3,012,608.82	17,547,531.41	2,228,566.95	19,776,098.36	734,041.97
ELECTRIC	43,622.21	2,525,265.31	2,568,887.52	27,905,147.19	2,562,724.36	30,467,871.55	21,223.16
WATER	68,512.14	1,472,610.20	1,541,122.34	12,801,665.59	1,467,147.21	14,268,812.80	20,975.13
SEWER	78,038.48	6,513,553.55	6,591,592.03	66,473,380.57	6,505,773.02	72,979,153.59	85,818.01
CIVIL CITY PAYROLL FUND	71,844.09	1,712,495.45	1,884,343.54	13,928,256.78	1,323,277.83	15,251,575.61	561,054.71
COOPER TRUST FUND	68.24	0.00	68.24	5,332.48	0.00	5,332.48	68.24
R-S1 ANTHONY WAYNE BANK	4,748.08	0.00	4,748.08	287,987.79	0.00	287,987.79	4,748.08
REDEVELOPMENT/W. MAIN ST. PROJ	70,035.36	1,000,000.00	1,070,035.36	5,090,045.23	1,000,000.00	6,090,045.23	70,035.36
CETA	39,683.30	1,720,075.50	1,759,758.80	8,477,713.96	1,338,781.89	9,816,495.85	420,975.90
AVIATION	146,613.86	564,372.02	710,985.88	3,249,705.26	658,181.18	3,907,886.44	52,905.70
PARK GENERAL	404,017.30	469,141.76	873,159.06	5,308,217.65	847,607.51	6,155,825.16	45,651.55
PARK TRUST	588.25	226,870.81	226,882.56	1,673,217.34	222,857.59	1,896,674.93	3,424.57
REDEVELOPMENT GENERAL	14,439.26	9,764.19	24,203.47	89,426.31	10,312.15	99,744.46	13,825.32
R-S3 REVOLVING FUND	13,966.26	19,506.58	33,492.84	93,555.13	10,492.84	104,447.97	23,000.00
REDEVELOPMENT DIST. BOND FUND	66,324.14	98,383.07	164,707.21	235,865.48	159,382.50	355,251.92	5,324.71
MOTOR VEHICLE HIGHWAY FUND	609,355.82	3,612,273.36	4,221,629.18	3,265,025.61	951,327.91	4,216,353.52	5,055.27
	10,237.62	0.00	10,237.62	0.00	0.00	0.00	10,237.62
E.E.C.C. - 705 CONTRACT	10,665.56	0.00	10,665.56	38,745.13	5,155.09	43,900.22	5,509.47
PARKING ADMINISTRATION	115,248.90	21,304.50	136,553.40	560,537.70	101,944.90	662,482.60	34,608.90
PUBLIC LIGHTING	162,704.85	182,840.42	345,545.27	57,544.39	4,074.65	61,519.04	3,836.09
REVENUE SHARING TRUST FUND	79,592.46	603,763.33	683,355.79	8,576,111.82	151,475.37	8,727,587.19	491,884.92
ANTI RECESSION PROJ	24,682.89	0.00	24,682.89	436,401.13	9,208.63	445,609.76	15,474.26
HUMAN TRUST 37000.	9,790.63	2,265.00	12,055.63	13,476.06	445.50	13,921.56	11,610.33
LOCAL RD. & STS.	166,587.19	314,760.42	481,347.61	4,824,960.31	531,068.60	5,356,028.91	49,770.35
MUNICIPAL UTILITIES PENSION	10,659.35	8,322.88	18,982.23	101,441.55	8,322.88	109,764.43	10,659.35
FIRE PENSION FUND	80,840.96	183,840.52	264,681.48	1,185,705.50	100,368.90	1,286,074.40	129,189.34
POLICE PENSION FUND	172,163.96	191,111.26	363,275.22	1,255,447.71	117,505.22	1,372,952.93	98,702.85
SANITARY OFFICERS PENSION	10,772.96	12,529.59	23,302.55	65,265.74	6,606.62	71,872.36	16,695.93
FORT WAYNE ART SCHOOL	112.02	0.00	112.02	0.00	0.00	0.00	112.02
REDEVELOPMENT DISTRICT CAPITAL	34,969.39	277,425.17	312,394.56	438,775.04	261,506.30	700,281.34	50,891.26
CUMULATIVE CAPITAL IMPROVEMENT	67,612.50	395,994.18	463,606.68	203,585.95	336,052.97	539,642.92	127,853.76
FINE ARTS FOUNDATIONS	457.43	6,222.67	6,680.10	31,650.00	6,680.10	38,330.10	0.00
ACCIDENT REPORT ACCOUNT	9,481.00	2,987.50	12,468.50	25,355.99	435.98	25,791.97	11,142.52
PAYROLL PENSION FUND	0.00	231,884.04	231,884.04	2,500,134.87	231,884.04	2,732,018.91	0.00
CRIME PREVENTION BUREAU TRUST	45.90	0.00	45.90	17.10	0.00	17.10	45.90
FT. WAYNE FIREFIGHTING FUND	121,344.86	0.00	121,344.86	316,688.22	112,329.04	429,017.26	9,055.82
PARK CLK. BLDG. FUND	141.84	0.00	141.84	1,103,250.00	0.00	1,103,250.00	141.84
SUS. IPA GRANT	0.00	0.00	0.00	93.94	0.00	93.94	0.00
IND. A-14 REDEVELOPMENT	19,698.91	0.00	19,698.91	1,922.79	700.00	2,622.79	18,998.91
OMNIFUS CRIME CONTROL	33,665.92	7,992.30	41,658.22	114,742.23	9,163.49	123,905.72	32,694.73
CETA PAYROLL FUND	103,645.21	1,235,753.44	1,339,398.65	7,062,958.67	1,152,226.75	8,215,185.42	170,52
JUNK CAR FUND	5,166.37	0.00	5,166.37	4,058.27	832.08	4,890.35	8,334.29
INNER CITY STORM RELIEF PROJ.	0.00	0.00	0.00	1,227.35	0.00	1,227.35	0.00
STREET BOND FUND/1975	328,543.34	0.00	328,543.34	1,877,735.09	300,000.00	1,487,735.09	28,943.34
STREET BOND RETIREMENT	32,434.75	69,930.70	102,365.45	37,495.51	153,474.22	365,766.76	155,974.31
FEDERAL REVOLVING FUND	16,450.75	41,057.21	57,507.96	93,129.35	19,157.88	112,287.23	38,430.09

CITY CONTROLLER'S AND CITY TREASURER'S MONTHLY FINANCIAL STATEMENT

MONTH OF DECEMBER, 1977

FUNDS	BEGINNING BALANCE	RECEIPTS FOR MONTH	TOTAL BALANCE AND RECEIPTS	DISBURSED TO DATE	DISBURSED FOR MONTH	TOTAL DISBURSED	CONTROLLER'S ENDING BALANCE
COMMUNITY RENEWAL PROGRAM	5,632.03-	0.00	5,632.03-	16,345.82	53.10	16,398.92	5,685.13-
IPA	0.00	0.00	0.00	58.43	0.00	58.43	0.00
E.C.A. GRANT	35,212.71	874.80	36,087.61	62,340.12	14,039.11	76,429.23	21,998.50
COMMUNITY DEVELOPEMNT GRANT	120,778.25	32,662.96	1,153,441.21	1,377,333.78	94,464.60	1,471,798.38	58,976.61
RECREATIONAL SUPPORT PROGRAM	427.43	0.00	927.43	30,114.55	0.00	30,114.55	927.43
INVESTMENTS	1,425,000.00-	2,425,000.00	1,000,000.00	21,674,000.00	3,000,000.00	24,674,000.00	2,000,000.00-
BARR ST. RIVERBANK IMP.-CD&P	1,308.60	0.00	1,308.60	2,656.00	0.00	2,656.00	1,308.60
FIRE PENSION FUND - 5/1/77	85.44	97.31	182.75	315.65	0.00	315.65	182.75
POLICE PENSION FUND - 5/1/77	1,310.08	1,025.22	2,335.36	1,253.12	0.00	1,253.12	2,335.36
CATV REVOLVING FUND	512.00	0.00	512.00	0.00	0.00	0.00	512.00
TITLE XX - CD & P	1,248.69	362.49	1,611.18	0.00	0.00	0.00	1,611.18
TOTALS	841,657.65	26,219,038.38	26,860,696.03	219,999,548.48	26,103,946.49	246,103,494.97	756,749.54

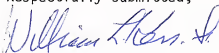
President of the Common Council
City of Fort Wayne, Indiana

Gentlemen:

Attached herewith are authenticated copies of the Board of Public
Safety Regulatory Resolution Number: 4/78/E

For the purpose of enforcement, please make this communication and
the attached Regulatory Resoluition a matter of record and incorporate
it into the minutes of the next Common Council Meeting.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read "William L. Kerr, Sr.", is written over the typed name.

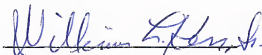
William L. Kerr, Sr.
Acting Chairman
Board of Public Safety

MADE A MATTER OF RECORD
DATE 2-14-78 CHARLES W. WESTERMAN, CITY CLERK

RETURN CERTIFICATE

(Regulatory Resolution No. 4/78/E)

I hereby certify that I did this 1st day of February, 19 78 deliver to each, the City Traffic Engineer, the Chief of Police, the City Attorney, The City Clerk and the President of the Common Council of the City of Fort Wayne, Indiana, respectively, a copy of the within Regulatory Resolution No. 4/78 / E of the Board of Public Safety of the City of Fort Wayne, duly certified by me as Acting Chairman ~~Secretary~~ of said Board, in accordance with the provisions of Section 17-4(a) of Chapter 17, Municipal Code of the City of Fort Wayne, Indiana 1946, as amended by General Ordinance G-55, adopted FEB. 14, 1961.



Acting Chairman
~~EXECUTIVE SECRETARY~~

REGULATORY RESOLUTION NO. 4/78/E

(Adopted February 1, 19 78)

WHEREAS, Section 7-4(a) (3), Chapter 17, Municipal Code of the City of Fort Wayne, Indiana, as amended by General Ordinance No. G-55 adopted FEB. 14 1961 authorizes the Board of Public Safety to make experimental regulations to cover special conditions; and,

WHEREAS, a special condition has arisen justifying the Experimental Regulation hereinafter ordered, with regard to RENEW & EXTEND REGULATORY RESOLUTION 77/77/E:

SPEED LIMIT - 25 MPH WHEN CHILDREN PRESENT (EMERGENCY)

_____ ; and,

WHEREAS, the City Traffic : Engineer has, by written memorandum dated January 31, 19 78, submitted to this Board his advice with regard to the regulation hereinafter adopted, which written memorandum is on file in the office of this Board;

NOW THEREFORE, BE IT RESOLVED BY THE BOARD OF PUBLIC SAFETY OF THE CITY OF FORT WAYNE, INDIANA:

That, pursuant to the authority granted to this Board by Section 7-4(a) (3) of Chapter 17 of the Municipal Code of the City of Fort Wayne, Indiana 1946, as amended by General Ordinance No G-55, adopted FEB. 14, 1961, to make experimental regulations to cover special condi-

tions, it is hereby ordered, effective February 1, 19 78, and for a period of sixty (60) days thereafter, and when signs are erected pursuant hereto giving notice thereof, that THE FOLLOWING BE ESTABLISHED:

SPEED LIMIT - 25 MPH WHEN CHILDREN PRESENT (EMERGENCY)

Covington Rd. -- from Brooklyn Ave. to Edwards St.



CHARLES W. WESTERMAN, CLERK
TELEPHONE 219-423-7183

City of Fort Wayne
OFFICE OF THE CITY CLERK
ROOM 120, CITY-COUNTY BUILDING
ONE EAST MAIN ST., FORT WAYNE, INDIANA 46802

MADE A MATTER OF RECORD
DATE 2-14-78 CHARLES W. WESTERMAN, CITY CLERK

February 14, 1978

Mr. Edward Murfitt
Indiana State Board of Accounts
201 State Office Building
Indianapolis, Indiana 46204

Dear Ed:

In July, 1977, the Mayor of Fort Wayne submitted to the Fort Wayne City Council for introduction an ordinance creating a new department in the City government, to be known as the "Department of Public Affairs." In addition, an ordinance abolishing the existing Department of Human Resources was submitted simultaneously as was yet another ordinance submitted designating the transfer of monies from the Department of Human Resources to the proposed "Department of Public Affairs."

At that time, the City Council, like other similar entities throughout the state, was laboring with the 1978 Civil City budget. Primarily for this reason, the Council chose not to introduce any of the above proposed ordinances; no new department therefore was created and no existing department was abolished. The Council did, however, appropriate monies in the 1978 budget for the Department of Human Resources.

Despite the action of City Council, we have found that there apparently is at present a fully functioning "Department of Public Affairs" in the city administration and there is no functioning Department of Human Resources.

At the request of Councilmember-At-Large Vivian G. Schmidt, I am preparing a report on the status of these departments and the legalities of expending money from the civil city budget in connection therewith, and am requesting the answers to the following questions from you and your staff:

1. Has the City Council the obligation to introduce any proposed ordinance submitted to it by the Mayor, or may the Council refrain from introducing same?
2. Has the Mayor the authority to create a new department of municipal government, and expend monies therefrom, without the lawful approval of the City Council?
3. Has the Mayor the authority to utilize funds appropriated by Council for one department and cause them to be expended by another department without benefit of a transfer of funds, or other legislative action, approved by Council?
4. Do I, as the City Clerk, have the authority to enter these expenditures on the Claim and Allowance Docket of the City of Fort Wayne?
5. Has the Council any authority to stop the Mayor from spending funds for a department which was not created via the enactment of an ordinance?

I would appreciate your reply at your earliest convenience, especially insofar as the expenditures referred to above are on-going and continuing, and already are in excess of thousands of dollars.

I am enclosing for your information a copy of a memorandum from me to the Fort Wayne City Council outlining my initial findings regarding the expenditures from the "Department of Public Affairs" and a copy of a page from the city's Claim and Allowance Docket showing a portion of such expenditures.

Should you need additional information, please do not hesitate to call on me.

Sincerely,

Charles W. Westerman
City Clerk

CWW/rph

Encl. 1

cc: City Council

Memorandum

To To All Council Members

Date January 24, 1978

From Charles W. Westerman, City Clerk

Subject

COPIES TO:

Pursuant to the request of Councilperson Vivian Schmidt, I have completed the research on the creation of the Department of Public Affairs. I have search the general index on all ordinances and, in addition, have made a thorough search of all other records pertaining to the legislation that would create such a department. I find no such department has been created.

However, the 1978 budget reflects a Department of Human Resources. This budget is currently being used for another department, listed as the Department of Public Affairs. I have found that the Controller of the City of Fort Wayne has established an account number for the Department of Public Affairs, being Account No. 10-6-75. On January 19, 1978, the Controller submitted a claim in the amount of \$202.93, Account No. 10-6-75-214, Telephone and on January 20, 1978 submitted a claim, Account No. 10-6-75-111, Payroll, in the amount of \$2,293.85. The above claims are recorded in the Claim and Allowance Docket located in the Office of the City Clerk.

I further found that the following ordinances, dated July 26, 1977, failed to be introduced.

Bill No. A-77-07-19, An Ordinance transferring monies into a newly created Department of Public Affairs.


Bill No. S-77-07-20, An Ordinance transferring the Ombudsman from the Department of Public Works to the newly created Department of Public Affairs.

Bill No. S-77-07-21, An Ordinance creating a Department of Public Affairs.

Bill No. S-77-07-22, An Ordinance abolishing the Department of Human Resources.


Charles W. Westerman, City Clerk

I, Charles W. Westerman, Clerk of the City of Fort Wayne and Clerk of the Common Council of the City of Fort Wayne, do hereby state the above research and findings are true to the best of my knowledge and belief. This action has been recorded as a permanent record within the Office of the City Clerk.


Charles W. Westerman, City Clerk

CLAIM AND ALLOWANCE DOCKET

[illegible]



COMMON COUNCIL
CITY OF FORT WAYNE
ONE EAST MAIN ST.
FORT WAYNE, INDIANA 46802

WILLIAM T. HINGA
MEMBER OF CITY COUNCIL
THIRD DISTRICT

February 12, 1978

To the Members of Common Council
Fort Wayne, IN

Gentlemen and Mrs. Schmidt:

Please be advised that I shall be out of town for the Common Council
scheduled meetings dated February 14 and February 21, 1978.

Sincerely yours,

William T. Hinga
Councilman

MADE A MATTER OF RECORD
DATE 2-14-78 CHARLES W. WESTERMAN, CITY CLERK



THE CITY OF FORT WAYNE

COMMUNITY DEVELOPMENT & PLANNING

CITY-COUNTY BUILDING • ONE MAIN STREET • FORT WAYNE, INDIANA 46802

Long Range Planning & Zoning

8 February 1978

COMMUNICATIONS FROM CITY PLAN COMMISSION

The Common Council of the
City of Fort Wayne
City-County Building
One Main Street
Fort Wayne, IN 46802

Gentlemen and Mrs. Schmidt:

Attached hereto is the recommendation of the City Plan Commission on one (1) ordinance concerning the amendment of the Zoning Ordinance (General Ordinance Number 2836, amending Chapter 36 of the Municipal Code of the City of Fort Wayne, Indiana, 1946). The proposed ordinance is designated as:

BILL NO. Z-77-10-28

Respectfully submitted,

CITY PLAN COMMISSION

Certified and signed this
8th day of February, 1978.

Luben Lazoff
Secretary

2-14-78
DATE 2-14-78 MADE A MATTER OF RECORD
CHARLES W. WESTERMAN, CITY CLERK

AN EQUAL OPPORTUNITY EMPLOYER



THE CITY OF FORT WAYNE

COMMUNITY DEVELOPMENT & PLANNING

CITY-COUNTY BUILDING • ONE MAIN STREET • FORT WAYNE, INDIANA 46802

Long Range Planning & Zoning

8 February 1978

Members of the Common Council
City-County Building
One Main Street
Fort Wayne, IN 46802

Gentlemen and Mrs. Schmidt:

Attached hereto is a copy of a resolution pertaining to one (1) zoning ordinance amendment acted upon by the City Plan Commission at their regular meeting held November 28, 1977. In addition to the reasons outlined in the resolution the following are additional remarks pertaining to the ordinance involved:

1. Bill No. Z-77-10-28
2. From "RA" to "R3"
3. Intended Use: No intended use given.
4. Plan Commission Recommendation: NO RECOMMENDATION

This ordinance received this decision for the following reason:

(Excerpt from the transcript of the Plan Commission Meeting held November 28, 1977)

"It is the recommendation of this committee that this ordinance be returned to the Common Council with a recommendation of DO PASS for the following reason:

1. The "R3" District will permit uses which are compatible with this particular area of E. State Blvd.

Motion was made by Mr. James Kelly, seconded by Mrs. Rothberg to give the proposed ordinance a DO PASS. After some discussion a roll call vote was taken:

Biggs - Yes
Blanton - Yes
Kelly - Yes
Rothberg - Abstain

Schmidt - No
Simler - Abstain
Wehrenberg - Yes
Wiegel - No

AN EQUAL OPPORTUNITY EMPLOYER

Members of Common Council
8 February 1978

Page two

Motion did not carry.

If there are any questions with regard to this ordinance, please
feel free to call on us.

Respectfully submitted,

COMMUNITY DEVELOPMENT AND PLANNING
Division of Long Range Planning &
Zoning



Gary F. Baeten
Land Use Administrator

GFB:pb

Attachments

RESOLUTION OF ZONING ORDINANCE AMENDMENT RECOMMENDATION

WHEREAS, the Common Council of the City of Fort Wayne, Indiana, on October 25, 1977, referred a proposed zoning map amendment to the City Plan Commission which proposed ordinance was designated as Bill No. Z-77-10-28; and,

WHEREAS, the required notice of public hearing on such proposed ordinance has been published as required by law; and,

WHEREAS, the City Plan Commission conducted a public hearing on such proposed ordinance on November 21, 1978;

NOW THEREFORE, BE IT RESOLVED that the City Plan Commission does hereby give NO RECOMMENDATION on such proposed ordinance.

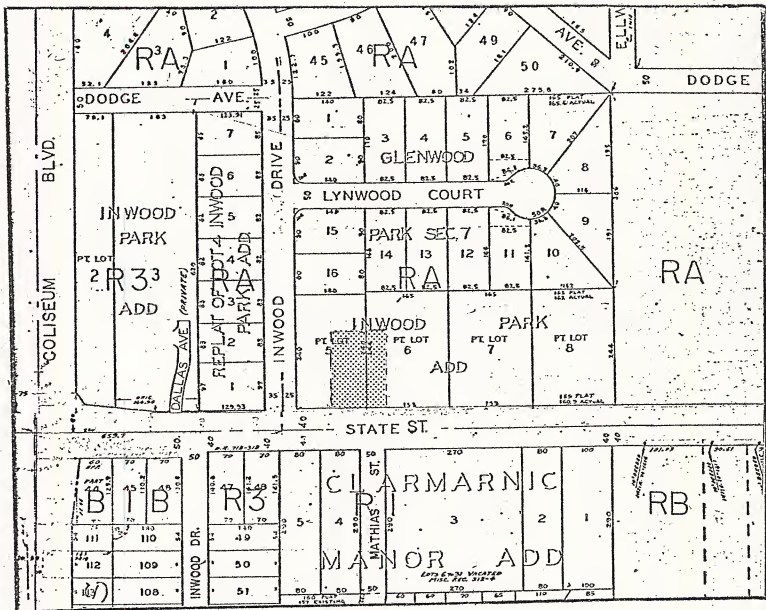
BE IT FURTHER RESOLVED that the Secretary is hereby directed to present a copy of this resolution to the Common Council at its next regular meeting.

This is to certify that the above is a true and exact copy of a resolution adopted at the meeting of the Fort Wayne City Plan Commission held November 28, 1977.

Certified and signed this
8th day of February, 1978.



Luben Lazoff
Secretary



REZONE FROM RA TO R3

MAP NO. S18

Z-77-10-28

BY M.F.C. 10-12-77





THE CITY OF FORT WAYNE

CITY-COUNTY BUILDING • ONE MAIN STREET • FORT WAYNE, INDIANA 46802

office of the mayor

February 1, 1978

City Council
City of Fort Wayne
Fort Wayne, Indiana

Gentlemen & Mrs. Schmidt:

I am requesting you to appoint Milton Mitnick of the State Civil Defense Department to act as Applicant Agent on behalf of the City of Fort Wayne to the Federal Government on the snow disaster order which was declared by President Carter, January 27, 1978.

This is very important since the reimbursement process will involve constant communication with the Federal Disaster Assistance Administration and the State Civil Defense Department will begin assisting local governments in obtaining reimbursement for contracted services from this agency.

Sincerely,

Robert E. Armstrong
Mayor

REA/vrr

MADE A MATTER OF RECORD
DATE 2-14-78 CHARLES W. WESTERMAN, CITY CLERK





THE CITY OF FORT WAYNE

CITY-COUNTY BUILDING • ONE MAIN STREET • FORT WAYNE, INDIANA 46802

office of the mayor



January 31, 1978

To the Common Council
Gentlemen and Mrs. Schmidt:

Today, January 31, 1978, I have approved the following ordinances passed by the Common Council at its regular meeting of January 24, 1978.

(Bill No. A-78-01-01)
APPROPRIATION ORDINANCE NO. A-02-78

AN ORDINANCE appropriating funds from Cumulative Capital Improvement Funds per Senate Enrolled Act 159 (1977) to the City of Fort Wayne's General Fund

(Bill No. A-78-01-02)
APPROPRIATION ORDINANCE NO. A-03-78

AN ORDINANCE appropriating funds from the City Light Lease Fund to the City of Fort Wayne's General Fund

(Bill No. S-78-01-03)
SPECIAL ORDINANCE NO. S-07-78

AN ORDINANCE approving an Agreement to Purchase Real Estate from Interim Investments, Inc., for Neighborhood Care, Inc.

(Bill No. S-78-01-04)
SPECIAL ORDINANCE NO. S-08-78

AN ORDINANCE approving a contract with W. A. Sheets, Inc., Shambaugh & Son, Inc., and A. Hattersley & Sons, Inc. for restoration of the "Old City Hall"

(Bill No. R-78-01-25)
RESOLUTION NO. R-04-78

A RESOLUTION authorizing payment to Northway Chrysler Plymouth and Allen County Motors for repair of Board of Public Safety Vehicles

MADE A MATTER OF RECORD
DATE 2-14-78 CHARLES W. WESTERMAN, CITY CLERK



(Bill No. R-78-01-26)
RESOLUTION NO. R-05-78

A RESOLUTION authorizing payment to Northway Chrysler Plymouth for repair of Board of Public Safety Vehicle

(Bill No. R-78-01-27)
RESOLUTION NO. R-06-78

A RESOLUTION authorizing payment to Murray Equipment for repair of Board of Public Safety gasoline provers

(Bill No. R-78-01-28)
RESOLUTION NO. R-07-78

A RESOLUTION approving the Budget of Fort Wayne and Allen County Convention and Tourism Authority for 12-month Period Beginning January 1, 1978 and Ending December 31, 1978

(Bill No. Z-77-11-02)
ZONING MAP ORDINANCE NO. Z-02-78

AN ORDINANCE amending the City of Fort Wayne Zoning Map No. N19

(Bill No. S-78-01-08)
SPECIAL ORDINANCE NO. S-09-78

AN ORDINANCE approving a contract with L. W. Dailey, Inc., for Resolution No. 5786-1977

(Bill No. S-78-01-09)
SPECIAL ORDINANCE NO. S-10-78

AN ORDINANCE approving a contract with Servelect, Inc., for Resolution No. 5782-77

(Bill No. S-78-01-10)
SPECIAL ORDINANCE NO. S-11-78

AN ORDINANCE approving Change Order No. 1 in connection with Resolution No. 5754-77 - 1977 Resurfacing - North Washington Road

(Bill No. S-78-01-11)
SPECIAL ORDINANCE NO. S-12-78

AN ORDINANCE approving a contract with John Dehner, Inc., for Resolution No. 5778-77

(Bill No. S-78-01-12)
SPECIAL ORDINANCE NO. S-13-78

AN ORDINANCE approving a contract with Continental Construction Company, Inc., for Resolution No. 5781-1977

(Bill No. S-78-01-13)
SPECIAL ORDINANCE NO. S-14-78

AN ORDINANCE approving a contract with T-G Excavating, Inc., for sewer improvement resolution no. 299-77

(Bill No. S-78-01-14)
SPECIAL ORDINANCE NO. S-15-78

AN ORDINANCE approving Change Order No. 3 in connection with N. Maumee River Sanitary Inter. Sect. I, Resolution No. 290-77

(Bill No. S-78-01-15)
SPECIAL ORDINANCE NO. S-16-78

AN ORDINANCE approving a contract with Rieth-Riley Construction Co., Inc., for Resolution No. 5767-77

(Bill No. S-78-01-16)
SPECIAL ORDINANCE NO. S-17-78

AN ORDINANCE approving contracts with International Harvester and W. A. Jones & Son for materials for Water Maintenance & Service Department

(Bill No. S-78-01-17)
SPECIAL ORDINANCE NO. S-18-78

AN ORDINANCE approving a contract with Double Envelope for materials for Office Services Department

(Bill No. S-78-01-18)
SPECIAL ORDINANCE NO. S-19-78

AN ORDINANCE approving a contract with T-G Excavating Inc., for construction of Tillman Rd. - Hessen Cassel Rd. Water Main Adjustment

(Bill No. S-78-01-19)
SPECIAL ORDINANCE NO. S-20-78

AN ORDINANCE approving a contract with Hoosier Ford, Inc., for One 1978 Ford

LTD II for Water Engineering Department

(Bill No. G-78-01-20)

GENERAL ORDINANCE NO. G-03-78

AN ORDINANCE changing Councilmatic District from No. 3 to Councilmatic District No. 4 for the area described in Annexation Ordinance No. X-09-68

Respectfully yours,

A handwritten signature in black ink, appearing to read "Robert E. Armstrong", written over the printed name.

Robert E. Armstrong
Mayor



THE CITY OF FORT WAYNE

COMMUNITY DEVELOPMENT & PLANNING
CITY-COUNTY BUILDING • ONE MAIN STREET • FORT WAYNE, INDIANA 46802
Long Range Planning & Zoning

25 January 1978

COMMUNICATIONS FROM THE CITY PLAN COMMISSION

The Common Council of the
City of Fort Wayne
City-County Building
One Main Street
Fort Wayne, IN 46802

Gentlemen and Mrs. Schmidt:

Attached hereto is the recommendation of the City Plan Commission on one (1) ordinance concerning the vacation of a dedicated utility easement.

The proposed ordinance is designated as:

BILL NO. G-77-05-34

Respectfully submitted,

CITY PLAN COMMISSION

Certified and signed this
25th day of January, 1978.


Luben Lazoff
Secretary

MADE A MATTER OF RECORD
DATE 2-14-78 CHARLES W. WESTERMAN, CITY CLERK



THE CITY OF FORT WAYNE

COMMUNITY DEVELOPMENT & PLANNING

CITY-COUNTY BUILDING • ONE MAIN STREET • FORT WAYNE, INDIANA 46802

Long Range Planning & Zoning

25 January 1978

Member of the Common Council
City-County Building
One Main Street
Fort Wayne, IN 46802

Gentlemen and Mrs. Schmidt:

Attached hereto is a copy of a resolution pertaining to one dedicated utility easement vacation acted upon by the City Plan Commission at their regular meeting held June 27, 1977. In addition to the reasons outlined in the resolution, the following are additional remarks pertaining to the ordinance involved.

1. Bill No. G-77-05-34
2. Intended Use: Vacated easement will be utilized by abutting property owners.
3. Plan Commission Recommendation: DO PASS

This ordinance received a DO PASS recommendation for the following reason:

- a. That no other person, firm or corporation is interested or affected by the requested vacation.

If there are any questions with regard to this ordinance please feel free to call on us.

Respectfully submitted,

COMMUNITY DEVELOPMENT & PLANNING

Gary F. Baeten
Land Use Administrator

GFB:pb

Attachments:

7
16

RESOLUTION OF DEDICATED UTILITY EASEMENT

WHEREAS, the Common Council of the City of Fort Wayne, Indiana, on May 24, 1977 referred a proposed dedicated utility easement vacation to the City Plan Commission which proposed ordinance was designated as Bill No. G-77-05-34; and,

WHEREAS, the required notice of public hearing on such proposed ordinance has been published as required by law; and,

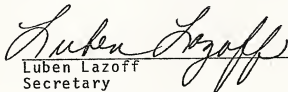
WHEREAS, the City Plan Commission conducted a public hearing on such proposed ordinance on June 20, 1977;

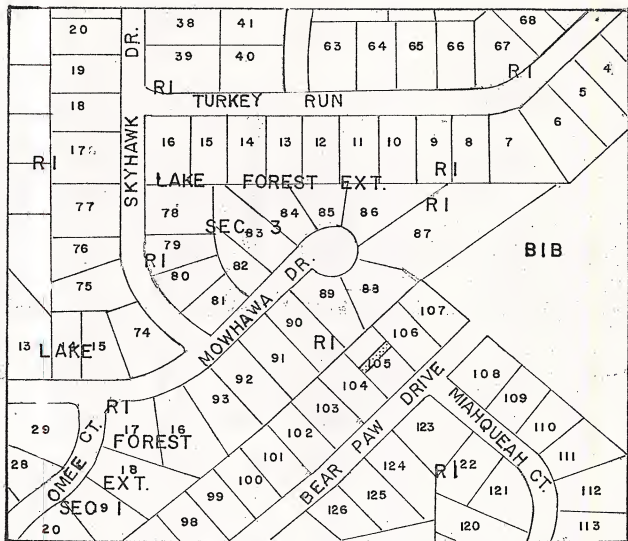
NOW THEREFORE, BE IT RESOLVED that the City Plan Commission does hereby recommend that such proposed ordinance DO PASS for the reasons that a need has been shown for the Land Use Plan to be amended, the amendment will be in the best interest of and benefit to the area involved and of and to the City, and the amendment will not be detrimental to and conflict with the overall City Plan; and,

BE IT FURTHER RESOLVED that the Secretary is hereby directed to present a copy of this resolution to the Common Council at its next regular meeting.

This is to certify that the above is a true and exact copy of a resolution adopted at the meeting of the Fort Wayne City Plan Commission held June 27, 1977.

Certified and signed this
25th day of January 1978.


Luben Lazoff
Secretary



PART OF EASEMENT TO BE VACATED



G-77-05-34

14

WHEREAS, BARRY M. OCHSTEIN AND DEBRA D. OCHSTEIN, have petitioned and requested the Fort Wayne City Plan Commission to hold a public hearing upon the vacation of the following described portion of dedicated public utility easement within the City of Fort Wayne, Allen County, Indiana, to-wit:

The Southeasterly two (2) feet of the Southeasterly fourteen (14) feet of the Northwesterly sixty-four (64) feet of Lot #105, Lake Forest Extended, Section IV, a Subdivision in Kercheval Reserve, Township 31 North, Range 13 East, in Allen County, Indiana.

all in accordance with the terms of Section 44, Chapter 174 of the Acts of 1947, of the General Assembly of the State of Indiana, as amended by Section 3 of Chapter 385 of the Acts of 1963 of the General Assembly of the State of Indiana, Indiana Code Section 18-7-5-46; and,

WHEREAS, notice of such public hearing has been given by due and proper publication thereof;

WHEREAS, said vacation of dedicated public utility easement has been routed thru the following departments: Street Engineering, Traffic Engineering, Water Engineering, Water Pollution Control Engineering, Street Light Engineering, Park Board, and thru the Public Utility Companies.

NOW THEREFORE, BE IT RESOLVED by the Fort Wayne Board of Public Works that the vacation of said public dedicated utility easement hereinbefore described conforms to the general policy and pattern of development set out in the Master Plan of the City of Fort Wayne, Indiana.

BE IT FURTHER RESOLVED by the Board of Public Works that the vacation of said portion of easement hereinbefore described be and the same is hereby approved.

BE IT FURTHER RESOLVED no public utility occupying and using said easement or part thereof for the vacation and operation of its utility facilities shall be deprived of said use on account of these proceedings unless any said utility shall file a written consent to said vacation.

Page two

STATE OF INDIANA)
COUNTY OF ALLEN) SS:

I, Henry P. Wehrenberg, Chairman of the Board of Public Works, do hereby certify that attached hereto is a full, true and correct copy of a resolution adopted by the Fort Wayne Board of Public Works following a Board of Works meeting held on 1/25/78, and as the same appears of record in the official records of said Board of Public Works.

Dated this 25 day of January 1978.

FORT WAYNE BOARD OF PUBLIC WORKS

Henry P. Wehrenberg
Henry P. Wehrenberg, Chairman

Ethel H. LaMar
Ethel H. LaMar, Member

Max G. Scott, Member

A G R E E M E N T

WHEREAS, there presently exists a public utility easement in,
over, and along the following described real estate, to-wit:

The Southeasterly fourteen (14) feet of the
Northwesterly sixty-four (64) feet of Lot 105, Lake
Forest Extended, Section IV, a Subdivision in
Kercheval Reserve, Township 31 North, Range 13 East,
in Allen County, Indiana; and,

WHEREAS, the owners of said real estate are BARRY M. OCHSTEIN and DEBRA D. OCHSTEIN, and said owners have constructed or caused to be constructed part of their residence on the Southeasterly two (2) feet of said above-described easement, thus causing an encroachment;

NOW, THEREFORE, for and in consideration of the sum of one dollar (\$1.00), GENERAL TELEPHONE COMPANY OF INDIANA, INC., gives, grants, and consents unto BARRY M. OCHSTEIN, DEBRA D. OCHSTEIN, their successors and assigns, the right to maintain the residence so as to encroach in and onto the easement to the extent hereinabove described.

IN WITNESS WHEREOF, the undersigned has set its hand and seal
this 11th day of January, 1978.

GENERAL TELEPHONE COMPANY OF INDIANA, INC.

By

E. A. BUCHNER
Vice President

ATTEST:

H. W. PURDY
Secretary

STATE OF INDIANA)
) SS:
COUNTY OF ALLEN)

Before me, the undersigned, a Notary Public in and for said County and State, this 11th day of January, 1978 personally appeared E. A. Buchner and H. W. Purdy, to me known to be the Vice President and Secretary, respectively, of GENERAL TELEPHONE COMPANY OF INDIANA, INC., and acknowledged the execution of the foregoing Agreement.

IN WITNESS WHEREOF, I have hereunto set my hand and seal this day, month, and year above written.

Notary Public

My Commission expires:
March 12, 1978

This instrument prepared by EDWARD J. MOPPERT, Attorney at Law

U. S. Department of Labor



Employment and Training Administration
230 South Dearborn Street
Chicago, Illinois 60604

January 25, 1978

Mr. John Nukols
Councilman 1st District
Room 122, City-County Building
Ft. Wayne, Indiana 46802

Dear Mr. Nukols:

This is in response to your letter of January 16, 1978. The questions to which you request an opinion can best be answered by your local chief legal authority since it involves detailed information of all the local legalities involved.

Attached for your information is my response to Mayor Robert Armstrong's request for assistance in the dissolution of the Consortium. The Department of Labor's position is clearly defined in it.

If I can be of further assistance, please do not hesitate to let me know.

Sincerely,

DAVID R. JOHNSTON
Associate Regional Administrator
for Indiana Area Operations Office

Attachment

DATE 2-14-78 MADE A MATTER OF RECORD
CHARLES W. WESTERMAN, CITY CLERK

January 24, 1978

Honorable Robert Armstrong
Mayor, City of Ft. Wayne
City-County Building
One Main Street
Ft. Wayne, Indiana 46802

Dear Mayor Armstrong:

This is in response to your letter of January 11, 1978. The dissolution of an established Consortium is a local decision which is mutually consented to by all signatories to the Consortium Agreement. Paragraphs 15 and 16 of the Agreement clearly define the responsibility and authority of the Consortium. Paragraphs 12 and 13 speak to the responsibility of the administrative arm of the Consortium. It is therefore our opinion upon a reading of the Consortium Agreement that it may be amended only upon the written agreement of all parties. Dissolution is then accomplished through an amendment to the Agreement. The Department of Labor does not coordinate the dissolution. Our role is to act as technical advisors once the decision to dissolve has been submitted formally and in writing by all parties.

In accordance with the Federal Regulations (October 18, 1977) Section 95.11(f), an established Consortium shall have a stated duration at least equal to the period of the Grant which in the case of the Ft. Wayne Area Consortium is September 30, 1978.

Please be assured of the continued assistance of members of my staff.

Sincerely,

DAVID R. JOHNSTON
Associate Regional Administrator
for Indiana Area Operations Office

2-14-78
DATE 2-14-78 MADE A MATTER OF RECORD
CHARLES W. WESTERMAN

2-14-78
MADE A MATTER OF RECORD
CHARLES W. WESTERMAN, CITY CLERK
ATE

Minority Report on the Government
Operations Review Committee's Report
of the Abandoned Vehicle Program

We feel compelled to issue this "Truth Report" because of the lack of veracity and the attempt of the committee chairman to label differences of opinion as illegal activity. Of the 15 "law violations" stated in the report, 14 are not unlawful activities but merely statements of the chairmans feelings.

The one activity in which there was a potential deviation from the statutes was the lack of an appraisal board as provided in IC 9-9-1-9. This board was not appointed, however, the board is to be appointed by the Common Council. If there is any fault we must look at ourselves as being negligent.

It is our opinion many, many hours of valuable time and therefore dollars of both city officials and city councilman were needlessly wasted in trying to turn up evidence of wrongdoing after an investigation by law enforcement personnel had determined there was no illegal activity. It would appear the Chairman's report is nothing more than an attempt to justify that which was unnecessary and without justification.

The following comments are made in reply to the other 14 statements in the Chairman's report.

a. The City never held public auctions of motor vehicles until August 2, 1977, although the City started its abandoned motor vehicle program in early January 1976.

REPLY: No auction is needed if the vehicle is appraised at less than \$200. One should remember an auction will only occur after an accumulation of many vehicles over a period of time.

b. Evidence further discloses that the Fort Wayne Auto Parts which was the disposal agency did all the appraisal and purchased all the abandoned vehicles until August 2, 1977.

REPLY: Statement of fact

c. Although in some instances appraisals were checked by the City of Ft. Wayne, no regular check was made and the person charged with this responsibility would merely look at the pictures of the vehicle and determine if the prices were in line.

REPLY: In very few activities is it necessary to have more than a random sampling of checks to determine if procedures are being followed properly. Random checks would appear to be a reasonable and prudent approach in this situation.

d. Evidence further discloses in no instances were these vehicles ever appraised for more than \$100 until April or May of 1977.

REPLY: Statement of fact.

e. Evidence further discloses that the Chairman of the Board of Public Safety did not completely have a grasp of the problem and that the entire operation was turned over to the disposal agent, Ft. Wayne Auto Parts, which was an independent firm, which was disposing of the cars for junk and crushing the same in many instances.

REPLY: What is the problem? The only one brought forth was the fact two individuals were not notified that the police had found their stolen cars and they were subsequently destroyed. That was a police error to which they have admitted and already attempted to rectify.

f. No records were kept of disposal by the City.

REPLY: All disposed of vehicles are recorded by the City. There are complete records of this activity.

g. This statement was answered in the opening remarks.

h. That there was only one sale a Public Auction and then only after the Common Council commenced its investigation and only after the investigation was initially started by WANE-TV and certain revelations became evident was this action taken.

REPLY: See reply to statement (a).

i. The Board of Public Works of the City of Ft. Wayne attempted to show that it had placed some \$13,000 in the Junk Vehicle Fund; however the amount in the Junk Vehicle Fund based upon the number of vehicles disposed of would amount to an insignificant sum when the City's cost of operation of the program was considered. One person charged with the responsibility in the Board of Words spent at least half of his time; another person spent a good portion of his time and the cost of disposal of the vehicles was prohibitive.

REPLY: The cost of tagging abandoned vehicles will remain regardless of who disposes of the autos. Therefore the loss of \$13,000 which is an off-set on the tagging activity would have to be made up by the taxpayers. There is no cost to the City for disposal of the vehicles; the City is paid for the autos which are then disposed of by the disposal agent at their expense

j. There were four instances where cars were disposed of before the owners had an opportunity to reclaim them.

REPLY: There were only 2 instances in which owners did not know their

vehicles were impounded. The police have evidence to show in the other two instances that the people had been informed.

k. Evidence further shows that prior to the time when the City of Ft. Wayne embarked upon the program of abandoned motor vehicles on its own, that public auction sales were regularly held by the State once a month and that competitive bidders bid the automobiles at these public sales.

REPLY: That is one of the two legal ways in which vehicles may be disposed.

l. The record is replete with showings that abandoned motor vehicles program was conducted with no responsible head from the standpoint of the City of Ft. Wayne.

REPLY: This is nothing more than opinion. Mr. Terry Gach of the Board of Works was in charge.

m. That it was operated without regard to the law of the State of Indiana, that there was no proper notification to owners of cars in many instances.

REPLY: In only two out of 12,000 cases of towed vehicles was there a lack of notification; that is an error rate of 0.0001667. Both of these individuals, however, are certainly entitled to compensation for the errors.

n. The law was further violated in that no contract was ever made with Ft. Wayne Auto Parts for disposal, nor subsequently with the appraiser who took over the appraisal work after Mr. Walter King no longer did that work in the summer of 1977. If a contract was made it was never submitted to the Common Council.

REPLY: The lack of a contract for disposal being submitted to the Common Council can be an error only if the contract were for a service of greater than \$4000 value. Since the city is not paying money but receiving it no contract ratification is needed. Furthermore, historically there never has been more than a verbal agreement for disposal or towing.

o. The records kept on the program were incomplete, were missing, and vague.

REPLY: Certainly not as vague and inaccurate as the investigative report.

The entire investigation and the report that followed indicates that a gross misunderstanding exists concerning the purpose of the City operating an abandoned car program.

The detractors of the program and the author of the report seem to think that the program is for the purpose of serving those people who abandon their cars on the City streets. Nothing could be further from the truth.

There were twelve thousand cars towed for one reason or another during the period under question. Can you imagine having twelve thousand cars sitting around on City streets and parking lots illegally? That's twice as many as will fit into the Coliseum parking lot. That's almost as many cars as are parked in downtown Fort Wayne everyday. We would all have long ago been inundated by abandoned cars. The purpose of the abandoned car program is to serve all of those law abiding citizens who take care of their vehicles and not those who park illegally or abandoned their cars. Every towed car is recorded by either the Board of Works or the Police Department with year, make, color, license number, and serial number being noted. The owners are notified and most respond by picking up their car. Those who do not respond apparently are not concerned about the disposition of their cars.

We do not believe that the citizens of Fort Wayne should be plagued with a more expensive but less effective method of handling abandoned cars, as is suggested by the Democrat report.

Donald J. Schmidt
Fred Hunter

REPORT ON HEARINGS BY GOVERNMENT
OPERATIONS REVIEW COMMITTEE OF
THE COMMON COUNCIL OF THE CITY
OF FORT WAYNE ON THE ABANDONED
VEHICLE PROGRAM.

DATE 2-14-78 MADE A MATTER OF RECORD
CHARLES W. WESTERMAN, CITY CLERK

I.

INTRODUCTION

IC 18-1-4-2 gives the Common Council power and responsibility to investigate all departments, officers and employees of the City and to examine into the affairs of any corporation, firm or person in which the City has entered into any contracts or may be about to do so. The Common Council has the power of access to all records pertaining to any such investigation, the production of books, papers and other evidence and may issue subpoenas and attachments, in any case under inquiry.

One of the reasons for empowering it with investigatory powers is to assist the Common Council in its legislative process, this being the exclusive jurisdiction of the Common Council.

A. State Statute

IC 9-9-1-1 et seq. is the State law governing the disposal of any abandoned, junk, discarded or stolen vehicles. The statute defines an abandoned vehicle. It provides the procedure to be followed for its sale or disposal. It authorizes cities of second class to adopt an Ordinance or Ordinances to implement the statute.

B. City Ordinance

Incident to above statute the City of Fort Wayne did on the 11th of June, 1974 adopt General Ordinance No. G-16-74. The Ordinance itself carried out the mandate of IC 9-9-1-1 et seq. empowering the City when it desires to adopt the provisions of said State law to designate a public agency within the City Government to handle the abandoned vehicle program. Section 2 of the Ordinance designated the Board of Public Works as the Public Agency which is responsible for the removal, storage and disposal of abandoned vehicles as designated in "Abandoned Vehicle Act", and the Board of Public Works was empowered to employ such personnel and to acquire such equipment, property and facilities as were necessary to accomplish the above.

Section 3 of the Ordinance requires the Board of Works to establish periodic times and places for the sale or disposal of such vehicles impounded under the Ordinance and it also requires that any money from the operation of the program received to be placed in the "Junk Vehicle Fund".

C. The Record

The record consists of above state law IC 9-9-1-1 et seq., City Ordinance G-16-74, and IC 18-1-4-2 being the investigative responsibilities and powers of the Common Council of the City of Fort Wayne. It also consists of 471 pages of transcribed testimony from twelve (12) witnesses plus numerous documents and exhibits introduced in the said hearing. Meeting dates for hearings in the Committee were held on September 15, 1977, October 3, 1977, October 12, 1977, October 20, 1977, October 26, 1977, November 9, 1977, and January 5, 1978.

D. Purpose of This Report

The purpose of this report is to summarize the findings of the Committee and other recommendations for the improvement of handling of the abandoned vehicle program.

E. Terms

For ease in handling the report the term Abandoned Vehicle shall refer to abandoned, junk, discarded, or stolen vehicles unless the context of the sentence, paragraph or phrase in which said term is used should indicate otherwise.

F. Committee Membership

The membership of the committee consisted of Chairman, James S. Stier. Other members of the committee were Fredrick R. Hunter, Winfield C. Moses, Donald J. Schmidt, and Vivian G. Schmidt.

Counsel for the Common Council and the hearings was John H. Logan.

G. Period of Time Covered by Investigation

The period of time under investigation was January 1, 1976 through August 30, 1977.

H. Summary of Evidence

The evidence produced at the hearings shows that although the Common Council of the City of Fort Wayne had adopted General Ordinance G-16-74 providing for implementation of IC 9-9-1-1 et seq. (Abandoned Motor Vehicle Act) the abandoned vehicle program was at first operated through the Board of Public Safety instead of the Board of Public Works. Although IC 9-3-1-1 provides that there shall be a designated public agency and the Ordinance provided for the designated public agency the Board of Works never in fact functioned entirely as such until August

of 1977. It was not until the program was well under way that the Board of Works took any positive action on its own, and then only to share the responsibility of the abandoned motor vehicle requirement with the Board of Public Safety.

The Board of Public Works undertook the job of tagging motor vehicles on private property and the Board of Public Safety had exclusive jurisdiction over all vehicles on public roads, and streets and public places.

IC 9-9-1-9 provides for the creation of an appraisal board to appraise a vehicle's worth within 5 days after its removal by the proper disposal agent. This statute provides that within 5 days after removal of an abandoned vehicle to a storage area, such vehicle shall be appraised by an appraisal board which shall be composed of such persons appointed by the Common Council such appraisal board to include the City Controller, the Chairman of the Board of Works. The statute further provides that such appraisal board may in its discretion authorize the Board of Public Works to contract with private firms or individuals on an annual basis to perform the functions of appraising all abandoned vehicles which had been removed pursuant to the provisions of the law. It is apparent from the evidence that there never was any contract with any private individual or corporation for appraising abandoned vehicles, nor was any contract ever submitted to the Common Council for its approval thereof, nor was any contract ever made with any private individual or corporation as a towing agency, although this function was performed under a gentlemen's agreement with Fort Wayne Auto Parts and Kensill Auto Parts which organizations divided the City generally into two parts, one having jurisdiction over the south part of the city and the other over the north part of the city, and Fort Wayne Auto Parts ultimately acting as the storage and disposal yard. None of above arrangements were ever put in contractual form and none were ever submitted to the Common Council for its approval as required by the law of Indiana with respect to contracts and approval thereof by the Common Council.

IC 9-9-1-10 further provides that when an abandoned vehicle is appraised and its value does not exceed the sum of \$200.00 the public agency (in this case the Board of Public Works) shall:

- a) Within 48 hours after the appraisal prepare and forward to the Bureau of Motor Vehicles a notice containing a description of the vehicle, including the make, model, engine number, if any, identification number and

number of any license plates affixed and advise the Bureau of Motor Vehicles of all costs incurred in its removal and any anticipated costs for storage and disposal of the vehicle, with a request that the Bureau of Motor Vehicles advise the public agency, (the Board of Public Works) the name and most recent mailing address of the owner or furnish an abstract of title to such vehicle. This statute further provides that upon receipt of such information the Board of Works shall cause to be mailed in United States mail, written notice to the owner that the vehicle has been impounded and must be removed within 15 days of the mailing of said notice, advising further that the vehicle will be disposed of after that time, and that all costs incurred in removing, storing and disposing of such vehicle are the legal responsibility of the owner of the property. After the fifteen (15) day period has elapsed the vehicle shall be disposed of by sale. All funds derived from the sale of the vehicle go into the "Junk Vehicle Fund". None of Junk Vehicle Fund goes into the General Fund of the City but is to be used to defray the cost of the program.

There is a different procedure with respect to the appraisal and disposal when an abandoned vehicle exceeds an appraised value of \$200.00. In this case the public agency (the Board of Works) is required to allow 30 days for the owner of the property to recover the same. Notice is also required to be given by Certified Mail to such owner. If the owner appears prior to the disposal of said vehicle and pays all the costs incurred against it at that time, then he shall be entitled to the return of the vehicle. If the owner cannot be located or does not appear the public agency (Board of Public Works) shall sell the vehicle to the highest bidder at a public sale. Notice of the sale shall be given as required by law which is a publication one time in a newspaper insertion, and the purchaser at the public sale is furnished a certificate of sale by the public agency (Board of Public Works). Upon presentation of such certificate together with the proper application from the purchaser to the Bureau of Motor Vehicles the successful bidder is issued a title.

The law further requires a certified statement of costs to the Bureau of Motor Vehicles in case the proceeds of the sale exceed the cost the City Controller shall repay from the Junk Vehicle Fund such excess to the owner upon demand therefor.

The evidence in these hearings shows that there was never compliance with the law in the following respects:

- (a) The City never held public auctions of motor vehicles until August 2, 1977, although the City started its abandoned motor vehicle program in early January 1976;
- (b) Evidence further discloses that the Fort Wayne Auto Parts which was the disposal agency did all the appraisal and purchased all the abandoned vehicles until August 2, 1977;
- (c) Although in some instances appraisals were checked by the City of Fort Wayne, no regular check was made and the person charged with this responsibility would merely look at the pictures of the vehicle and determine if the prices were in line;
- (d) Evidence further discloses in no instances were these vehicles ever appraised for more than \$100.00 until April or May of 1977;
- (e) Evidence further discloses that the Chairman of the Board of Public Safety did not completely have a grasp of the problem and that the entire operation was turned over to the disposal agent, Fort Wayne Auto Parts, which was an independent firm, which was disposing of the cars for junk and crushing the same in many instances;
- (f) No records were kept of disposal by the City;
- (g) Another violation of the law by the City was that there was never an appraisal board set up as required by State law;
- (h) That there was only one sale at Public Auction and then only after the Common Council commenced its investigation and only after the investigation was initially started by WANE T.V. and certain revelations became evident was this action taken.

- (i) The Board of Public Works of the City of Fort Wayne attempted to show that it had placed some \$13,000 in the Junk Vehicle Fund; however the amount in the Junk Vehicle Fund based upon the number of vehicles disposed of would amount to an insignificant sum when City's cost of operation of the program was considered. One person charged with the responsibility in the Board of Works spent at least half of his time; another person spent a good portion of his time and the cost of disposal of the vehicles was prohibitive;
- (j) There were four instances where cars were disposed of before the owners had an opportunity to reclaim them;
- (k) Evidence further shows that prior to the time when the City of Fort Wayne embarked upon the program of abandoned motor vehicles on its own, the public auction sales were regularly held by the State once a month and that competitive bidders bid the automobiles in at these public sales;
- (l) The record is replete with showing that abandoned motor vehicle was a program conducted with no responsible head from the standpoint of the City of Fort Wayne;
- (m) That it is operated without regard to the law of the State of Indiana, that there was no proper notification to owners of cars in many instances;
- (n) The law was further violated in that no contract was ever made with Fort Wayne Auto Parts for disposal, nor subsequently with the appraiser who took over the appraisal work after Mr. Walter King no longer did that work in the summer of 1977. If a contract was made it was never submitted to the Common Council.
- (o) The records kept on the program were incomplete, were missing, and vague.

RECOMMENDATION

It is the recommendation of the Common Council that the present City Ordinance authorizing the City of engage in the Abandoned Motor Vehicle disposal be repealed and that the Indiana Bureau of Motor Vehicles take over entirely the disposal of abandoned motor vehicles; that the only function the City should perform would be that the Police Department of the City continue to pick up abandoned vehicles, and stolen vehicles on the streets and in public places. That in all other respects the State law IC 9-9-1-1 through IC 9-9-1-19 and IC 9-9-1.6-1 through IC 9-9-1.6-19, 1976 Cum. Poc. Supp. of Burns Indiana Statutes be followed so that the State of Indiana may carry this program and the City only assist where required.


ACKNOWLEDGMENTS

The Committee wishes to acknowledge a number of citizens who had urged the Council to investigate the Abandoned Vehicle Program.

Gratitude is due to the media which had performed investigations prior to the inquiry of the Council. In particular, we thank:

Toni Vigneiri and the staff of Channel 15 - WANE TV,
Kirk Stone and the Fort Wayne Journal Gazette.

Respectfully,

 Feb 13, 1978
James S. Stier, Councilman -
Chairman of Government Operations
Committee.



THE CITY OF FORT WAYNE

COMMUNITY DEVELOPMENT & PLANNING

CITY-COUNTY BUILDING • ONE MAIN STREET • FORT WAYNE, INDIANA 46802

Longe Range Planning & Zoning

24 January 1978

COMMUNICATIONS FROM THE CITY PLAN COMMISSION

The Common Council of the
City of Fort Wayne
City-County Building
One Main Street
Fort Wayne, IN 46802

Gentlemen and Mrs. Schmidt:

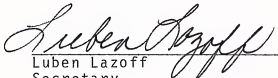
Attached hereto is the recommendation of the City Plan Commission on one (1) ordinance concerning the amendment of the Zoning Ordinance (General Ordinance No. 2836, amending Chapter 36 of the Municipal Code of the City of Fort Wayne, Indiana, 1946). The proposed ordinance is designated as:

Bill No. Z-77-12-29

Respectfully submitted,

CITY PLAN COMMISSION

Certified and signed
this 24th day of
January, 1978.


Luben Lazoff
Secretary

2-14-78
DATE
MADE A MATTER OF RECORD
CHARLES W. WESTERMAN, CITY CLERK



THE CITY OF FORT WAYNE
COMMUNITY DEVELOPMENT & PLANNING
Long Range Planning & Zoning

24 January 1978

Members of the Common Council
City-County Building
One Main Street
Fort Wayne, IN 46802

Gentlemen and Mrs. Schmidt:

Attached hereto is a resolution pertaining to a zoning ordinance amendment acted upon by the City Plan Commission at their meeting held January 23, 1978. In addition to the reasons outlined in the resolution, the following are additional remarks pertaining to the ordinance:

1. Bill No. Z-77-12-29
2. From "R3" to "B3B"
3. Intended Use: Furniture showroom, storage and workroom.
4. Plan Commission Recommendation: DO PASS

This ordinance received a DO PASS recommendation for the following reason:

- a. This request is a logical extension of an existing commercial district.

If there are any questions with regard to this ordinance, please feel free to call on us.

Respectfully submitted,

COMMUNITY DEVELOPMENT AND PLANNING
Division of Long Range Planning
and Zoning

Gary F. Baeten
Land Use Administrator

GFB/pb
Attachments:



RESOLUTION OF ZONING ORDINANCE AMENDMENT RECOMMENDATION

WHEREAS, the Common Council of the City of Fort Wayne, Indiana, on December 27, 1977, referred a proposed zoning map amendment to the City Plan Commission which proposed ordinance was designated as Bill No. Z-77-12-29; and,

WHEREAS, the required notice of public hearing on such proposed ordinance has been published as required by law; and,

WHEREAS, the City Plan Commission conducted a public hearing on such proposed ordinance on January 16, 1978;

NOW THEREFORE, BE IT RESOLVED that the City Plan Commission does hereby recommend that such proposed ordinance DO PASS for the reasons that a need has been shown for the Land Use Plan to be amended, the amendment will be in the best interest of and benefit to the area involved and of and to the City, and the amendment will not be detrimental to and does not conflict with the overall city plan:

BE IT FURTHER RESOLVED that the Secretary is hereby directed to present a copy of this resolution to the Common Council at its next regular meeting.

This is to certify that the above is a true and exact copy of a resolution adopted at the meeting of the Fort Wayne City Plan Commission held January 23, 1978.

Certified and signed this
24th day of January, 1978.


Luben Lazoff
Secretary



THE CITY OF FORT WAYNE

COMMUNITY DEVELOPMENT & PLANNING

CITY-COUNTY BUILDING • ONE MAIN STREET • FORT WAYNE, INDIANA 46802

Long Range Planning & Zoning

24 January 1978

COMMUNICATIONS FROM THE CITY PLAN COMMISSION

The Common Council of the
City of Fort Wayne
City-County Building
One Main Street
Fort Wayne, IN 46802

Gentlemen and Mrs. Schmidt:

Attached hereto is the recommendation of the City Plan Commission on one (1) ordinance concerning the amendment to the Zoning Ordinance (General Ordinance No. 2836, amending Chapter 36 of the Municipal Code of the City of Fort Wayne, Indiana, 1946). The proposed ordinance is designated as:

Bill No. Z-77-12-30

Respectfully submitted

CITY PLAN COMMISSION

Certified and signed this
24th day of January, 1978.



Luben Lazoff
Secretary

2-14-78
DATE _____ MADE A MATTER OF RECORD
CHARLES W. WESTERMAN, CITY CL.



THE CITY OF FORT WAYNE

COMMUNITY DEVELOPMENT & PLANNING
CITY-COUNTY BUILDING • ONE MAIN STREET • FORT WAYNE, INDIANA 46802
Long Range Planning & Zoning

24 January 1978

Members of the Common Council
City-County Building
One Main Street
Fort Wayne, IN 46802

Gentlemen and Mrs. Schmidt:

Attached hereto is a resolution pertaining to a zoning ordinance amendment acted upon by the City Plan Commission at their meeting held January 23, 1978. In addition to the reasons outlined in the resolution, the following are additional remarks pertaining to the ordinance:

1. Bill No. Z-77-12-30
2. From "B1A" to "B1B"
3. Intended Use: Coney King Restaurant
4. Plan Commission Recommendation: DO PASS

This ordinance received a DO PASS recommendation for the following reason:

- a. The Commission feels that this zoning request would not be in conflict with the surrounding area.

If there are any questions with regard to this ordinance, please feel free to call on us.

Respectfully submitted

COMMUNITY DEVELOPMENT AND PLANNING
Division of Long Range Planning
and Zoning

Gary F. Baeten
Land Use Administrator

GFB:pb
ENCL::

RESOLUTION OF ZONING ORDINANCE AMENDMENT RECOMMENDATION

WHEREAS, the Common Council of the City of Fort Wayne, Indiana, on December 27, 1977, referred a proposed zoning map amendment to the City Plan Commission which proposed ordinance was designated as Bill No. Z-77-12-30; and,

WHEREAS, the required notice of public hearing on such proposed ordinance has been published as required by law; and,

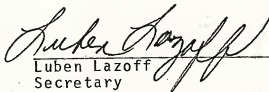
WHEREAS, the City Plan Commission conducted a public hearing on such proposed ordinance on January 16, 1978;

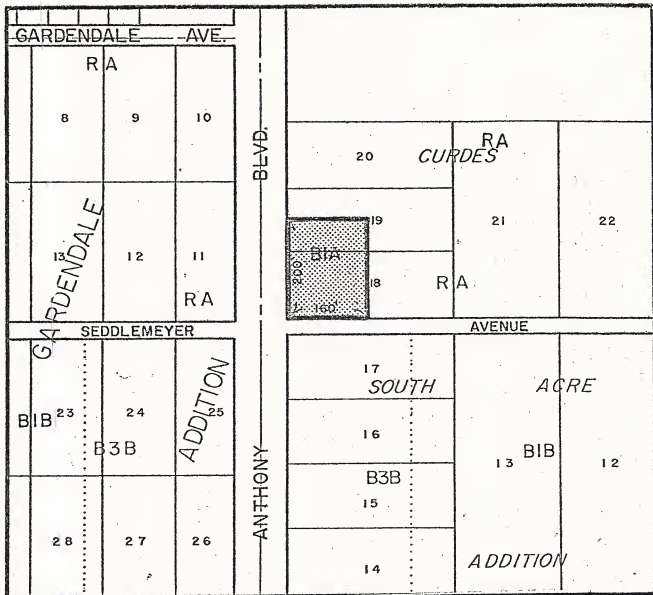
NOW THEREFORE, BE IT RESOLVED that the City Plan Commission does hereby recommend that such proposed ordinance DO PASS for the reasons that a need has been shown for the Land Use Plan to be amended, the amendment will be in the best interest of and benefit to the area involved and of and to the City, and the amendment will not be detrimental to and does not conflict with the overall city plan;

BE IT FURTHER RESOLVED that the Secretary is hereby directed to present a copy of this resolution to the Common Council at its next regular meeting.

This is to certify that the above is a true and exact copy of a resolution adopted at the meeting of the Fort Wayne City Plan Commission held January 23, 1978.

Certified and signed this
24th day of January, 1978.


Luben Lazoff
Secretary



REZONE FROM BIA TO BIB

MAP NO. P27

7-77-12-30

BY M.F.C. 11-30-77

THE COUNCIL THEN ADJOURNED.

CERTIFICATE

I hereby certify that I am the duly elected, acting and incumbent City Clerk of the City of Fort Wayne, Indiana and as such the custodian of the records of the Common Council of said City and that the above and foregoing is the true, full and complete record of the proceedings of the Common Council of the City of Fort Wayne, Indiana for its Regular Session, held on Tuesday the 14th day of January, 19 78 that the numbered ordinances and resolutions shown therein were duly adopted by said Common Council on said date and were presented by me to the Mayor of the City of Fort Wayne and were signed and approved or disapproved by said Mayor as and on the dates shown as to each such ordinance and resolution respectively; and that all such records, proceedings, ordinances and resolutions remain on file and record in my office.

WITNESS my hand and the official seal of the City of Fort Wayne, Indiana, this 24th day of February, 19 78.

Charles W. Westerman
Charles W. Westerman
City Clerk